

controls and quality assurance mechanism.

All Americans have a role to play in honoring veterans. Ordinary citizens give in extraordinary ways, such as volunteering at VA hospitals and VA shelters, and supporting local Veterans Service Organizations. For those of us who serve in Congress, we have a special privilege and responsibility to honor veterans by ensuring that they receive the benefits and care they have earned through service. This Congress has done much for veterans already, but there is more to be done.

The Committee on Veterans' Affairs will continue to do its share throughout this Congress. To name just two items of pending business, we will hold a markup tomorrow on pending legislation, including a bill that is designed to improve significantly VA's programs which address the mental health needs of veterans, especially those recently returned from combat, and second, the Committee is preparing to consider the nomination of Dr. James Peake to become Secretary of Veterans Affairs.

I close with this thought: On the battlefield, one never leaves behind a fallen comrade. Similarly, veterans should never be left behind by a system designed to care for and honor them. We cannot stand by while veterans who have fought for our country have to fight to get the care and benefits they have earned through their service. The Committee on Veterans' Affairs will respond to whatever challenges may arise in our work on behalf of those who rose up to defend and serve our Nation. To our veterans: Our thoughts, prayers, gratitude, honor and pride are with you, not only on Veterans Day, but always.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:28 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER.)

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent to speak for up to 10 minutes in morning business.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. REED. Thank you, Mr. President.

NOMINATION OF MICHAEL MUKASEY

Mr. REED. Mr. President, last week, this Senate deliberated and voted on the nomination of Judge Mukasey for the position of Attorney General of the United States. I opposed that nomination, and I believe it is appropriate to indicate formally and officially and publicly my concerns and my rationale for this vote.

This was not a decision that was made lightly. The Constitution gives the President the unfettered right to submit nominees to the Senate, but the Constitution also gives the Senate not only the right but the obligation to provide advice and consent on such nominations.

We do not name a President's Cabinet, but it does not mean we are merely rubberstamps for his proposals. Senatorial consent must rest on a careful review of a nominee's record and a thoughtful analysis of a nominee's ability to serve not just the President but the American people.

As I have said in the past, unlike other Cabinet positions, the Attorney General has a very special role—decisively poised at the juncture between the executive branch and the judicial branch. In addition to being a member of the President's Cabinet, the Attorney General is also an officer of the Federal courts and the chief enforcer of laws enacted by Congress.

He is, in effect, the people's lawyer, responsible for fully, fairly, and vigorously enforcing our Nation's laws and the Constitution for the good of all Americans.

Although I believe Judge Mukasey to be an intellectually gifted and legally skilled individual, I am very concerned about his ability to not just enforce the letter of the law but also to recognize and to carry out the true spirit of the law.

Frankly, I found Judge Mukasey's lawyerly responses to questions regarding the legality of various interrogation techniques, in particular waterboarding, evasive and, frankly, disturbing.

Waterboarding is not a new technique, and it is clearly illegal. As four former Judge Advocates General of the military services recently wrote to Senator LEAHY, in their words:

In the course of the Senate Judiciary Committee's consideration of President Bush's nominee for the post of Attorney General, there has been much discussion, but little clarity, about the legality of "waterboarding" under United States and international law. We write because this issue above all demands clarity: Waterboarding is inhumane, it is torture, and it is illegal.

These gentlemen have devoted themselves to their country, as soldiers and sailors and aviators, and also as attorneys. At the crux of their service was the realization that what we espoused, what we stood for, would also be the standard we would claim for American soldiers and aviators and sailors and

marines if they were in the hands of hostile forces. It is clear in their eyes—and should be clear in our eyes—that waterboarding is inhumane, it is torture, and it is illegal.

It is illegal under the Geneva Conventions, under U.S. laws, and the Army Field Manual. The U.S. Government has repeatedly condemned the use of water torture and has severely punished those who have applied it against our forces.

As Evan Wallach—a judge in the U.S. Court of International Trade and a former JAG who trained soldiers on their legal obligations—wrote in an opinion piece in the Washington Post, it was for such activities as waterboarding that members of Japan's military and Government elite were convicted of torture in the Tokyo war crimes trials.

The law is clear about this horrifying interrogation technique. Waterboarding is illegal torture and, to suggest otherwise, damages the very fabric of international principle and more importantly, of what we would claim and demand for our own soldiers and sailors and marines.

Now, Judge Mukasey was given several opportunities to clearly state that waterboarding is illegal. Instead, he went through a lengthy legal analysis regarding how he might determine if a certain interrogation technique was legal and then told us that if Congress actually wrote a law stating that a particular technique is illegal, he would follow the law. I found the last declaration almost nonsensical. This is the minimum requirement we would expect of any citizen of this country, that if we passed a law, they would follow the law.

I think we expect much more from the Attorney General. We expect him to be a moral compass as well as a wise legal advisor. We expect he would be able to conclude, as these other experts and as our history has shown, that this technique is indeed illegal. We need an Attorney General who has the ability to both lead the Department of Justice and to tell the President when he is crossing his boundaries. We do not need a legal enabler to the President. We need an Attorney General who will stand up for his obligation to the Constitution, and make this his foremost obligation, rather than his obligation to the President.

Not definitively stating that a technique such as waterboarding is illegal demonstrates to me that Judge Mukasey does not have those qualities we need in an Attorney General. As we learned from Attorney General Gonzales, we need someone who is willing to stand up to the President instead of helping the President negotiate around either the letter or the spirit of the Constitution.

This is not just an academic exercise. If the question of whether waterboarding is illegal torture was asked of the parents of American soldiers, their answer would be quite